

1 BREND A H. ENTZMINGER
2 Nevada Bar No. 9800
3 BREANE P. STRYKER
4 Nevada Bar No. 13594
5 **PHILLIPS, SPALLAS & ANGSTADT LLC**
6 504 South Ninth Street
7 Las Vegas, Nevada 89101
8 (702) 938-1510

9
10 *Attorneys for Defendant*
11 *Sam's West, Inc.*

12 UNITED STATES DISTRICT COURT

13 DISTRICT OF NEVADA

14
15 NGOC NGUYEN,

16 v.
17 Plaintiff,

18 SAM'S WEST, INC., a foreign corporation,
19 d/b/a SAM'S CLUB #4983; DOES I through V,
20 inclusive; and ROE CORPORATIONS VI
21 through X, inclusive,

22 Defendants.

23 Case No.: 2:15-cv-00649-JAD-PAL

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25 **STIPULATION AND [PROPOSED]**
ORDER FOR PLAINTIFF NGOC
NGUYEN TO UNDERGO AN FRCP
RULE 35 EXAMINATION BY DR.
STEVEN MCINTIRE

26 Plaintiff NGOC NGUYEN ("Plaintiff") and Defendant SAM'S WEST, INC. ("Sam's West")
27 do hereby stipulate to Plaintiff undergoing an FRCP Rule 35 examination by Sam's West's expert.

28 The parties aver that good cause exists for Plaintiff to undergo an Independent Medical
1 Examination ("IME") pursuant to FRCP 35, as Plaintiff's physical condition is in controversy in the
2 instant matter and she has made substantial claims for damages and future treatment. The parties have
3 agreed on the following parameters for the examination:

4 1. The examination will be conducted by Walmart's expert, neurologist Steven L.
5 McIntire, M.D., Ph.D., on the 18th day of September at 9:00a.m. and shall last no longer than two
6 hours (120 minutes).

7 2. Plaintiff shall not be required to wait for an excessive period of time before being seen
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1 by Dr. McIntire.

2 3. This examination shall include a patient history, diagnostic examination and
3 manipulation of Plaintiff's body and may include a range of neurological and physical exams
4 including a mental status exam, motor or strength testing, reflex testing, sensory testing, cerebellar
5 testing, cranial nerve evaluation, gait testing and range of motion and palpation, in order for the
6 examining physician to evaluate Plaintiff's injuries that are in controversy in the subject incident.
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8 4. This examination is conducted to evaluate Plaintiff regarding the nature, extent and
9 cause of the injuries to Plaintiff; the appropriateness of any past medical treatment or any future
10 medical treatment currently suggested; any future medical treatment needed; and the amount,
11 necessity and reasonableness of the charges. The Examining Medical Practitioner may ask questions
12 rationally related to Plaintiff's physical condition, medical history, family medical history, diagnosis,
13 prognosis and/or causation. Questions relating to causation may include, but shall not be limited to,
14 Plaintiff's understanding of the mechanics of her reported fall at Sam's West Store No. 4983 on
15 November 2, 2012.

17 5. No x-rays or lab tests will be performed.

18 6. This examination will be limited to an examination of the parts of the Plaintiff's body
19 which she alleges were injured as a result of the subject incident.

20 7. Dr. Steven L. McIntire will conduct the examination in a professional, courteous and
21 deferential matter.

23 8. Plaintiff shall appear at the noticed site of the examination, on the noticed date, and at
24 the noticed time.

25 9. Defendant shall provide to Plaintiff a copy of the report produced by Dr. McIntire
26 within thirty (30) days of the examination.

1 DATED this 25th day of August, 2015.

2 **LAW OFFICES OF RICHARD S. JOHNSON**

3 /s/ Richard S. Johnson

4 RICHARD S. JOHNSON, ESQ.
5 Nevada Bar No. 6361
6 5542 S. Fort Apache Road, Ste. 120
Las Vegas, Nevada 89148
(702) 425-8233

7 *Attorneys for Plaintiff*
8 *Ngoc Nguyen*

DATED this 25th day of August, 2015

PHILLIPS, SPALLAS & ANGSTADT LLC

/s/ Breane P. Stryker

BREANE P. STRYKER
Nevada Bar No. 13594
504 South Ninth Street
Las Vegas, Nevada 89101
(702) 938-1510

Attorneys for Defendant
Sam's West, Inc.

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10 IT IS SO ORDERED.

11 DATED this 26 day of August, 2015.

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13 UNITED STATES MAGISTRATE JUDGE

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 25th day of August, 2015, I served a true and correct copy of the
3 foregoing, **STIPULATION AND [PROPOSED] ORDER FOR PLAINTIFF NGOC NGUYEN**
4 **TO UNDERGO AN FRCP RULE 35 EXAMINATION BY DR. STEVEN MCINTIRE,** by
5 facsimile and by U.S. Mail, in a sealed envelope, first-class postage fully prepaid, addressed to the
6 following counsel of record, at the address listed below:
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ATTORNEY OF RECORD	TELEPHONE/FAX	PARTY
RICHARD S. JOHNSON, ESQ. Nevada Bar No. 6361 LAW OFFICES OF RICHARD S. JOHNSON 5542 South Fort Apache Rd., Ste. 120 Las Vegas, NV 89148	Phone 702-425-8233 Fax 702-818-3201	Plaintiff

12 */s/ Billi J. Montijo*
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14 An Employee of PHILLIPS, SPALLAS & ANGSTADT LLC
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